

ENGROSSED SENATE AMENDMENT
TO
ENGROSSED HOUSE
BILL NO. 1583

By: Nations of the House

and

Crutchfield of the Senate

An Act relating to municipal courts; amending 11 O.S. 2001, Section 27-120, which relates to the selection of jurors in municipal courts; adding an alternative method to select jurors; amending 38 O.S. 2001, Section 18.1, which relates to selection of jurors with the aid of mechanical or electronic means; allowing certain municipal courts to select jurors by mechanical or electronic means; and providing an effective date.

AMENDMENT NO. 1. Page 1, strike the title, enacting clause and entire bill and insert

"An Act relating to municipal courts; amending 11 O.S. 2001, Section 27-120, which relates to the selection of jurors in municipal courts; adding an alternative method to select jurors; amending 38 O.S. 2001, Section 18.1, which relates to selection of jurors with the aid of mechanical or electronic means; allowing certain municipal courts to select jurors by mechanical or electronic means; creating the Jury Patriotism Act; providing short title; amending 38 O.S. 2001, Sections 28 and 34, as amended by Section 1, Chapter 134, O.S.L. 2002 (38 O.S. Supp. 2002, Section 34), which relate to qualifications and exemptions and discharge of employee for jury service; authorizing postponements of jury service under certain circumstances; providing procedures for requesting postponement; defining term; authorizing excuse from jury service under certain circumstances; providing procedures for requesting excuse; limiting duration of jury service under certain circumstances; creating certain account; stating purpose; requiring Administrator of Courts to promulgate certain rules; providing guidelines for rules; stating source of money to be deposited into account; stating use of funds; limiting amount to be paid per person from account; requiring certain party to reimburse paid funds; authorizing certain persons to request funds; requiring Administrator to prescribe certain form; providing contents of form; stating exceptions; allowing certain deduction; authorizing certain employers to apply for supplement under certain circumstances; requiring automatic postponement under certain circumstances; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 11 O.S. 2001, Section 27-120, is amended to read as follows:

Section 27-120. Jurors in the municipal court shall be selected pursuant to this section under the same terms and conditions as are provided for by law for the district courts, or in the alternative, pursuant to Section 18.1 of Title 38 of the Oklahoma Statutes. Upon written request of the judge of the municipal court for a stated number of jurors to the chief judge of the appropriate district court, it shall be the duty of the clerk of the district court to ~~draw request~~ request from the ~~jury wheel~~ Administrative Director of the Courts a requested number of jurors in the same manner as is provided by law for the district court ~~until the number requested,~~ who from their addresses appear to reside within the corporate limits of the municipality, is drawn, and to prepare a list of names ~~drawn~~ provided by the Administrative Director of the Courts and certify such list to the judge of the municipal court. ~~On completion of the draw, the clerk shall immediately return to the jury wheel all names drawn which are not placed on the certified list.~~ The judge of the municipal court shall make written request to the chief judge of the district court for a stated number of additional jurors if, after allowance of claimed statutory exemptions, the listed number is found to be insufficient. Summons of the prospective jurors shall be issued as set out by ordinance, and may be served in person by the chief of police or any member of the police force of the municipality, or may be served by the clerk of the municipal court by mail.

SECTION 2. AMENDATORY 38 O.S. 2001, Section 18.1, is amended to read as follows:

Section 18.1 A. In lieu of any other procedure now provided by law, the judge in charge of court administration in the county may, by order, adopt a plan for the selection of qualified jurors for

jury service with the aid of mechanical or electronic means and implement such plan upon its approval by the Supreme Court.

B. Any such plan so adopted shall conform to the following requirements:

1. A complete plan shall be proposed in writing and submitted for approval by the Supreme Court.

2. It shall provide a fair, impartial and objective method of selecting persons for jury service with the aid of mechanical or electronic equipment.

3. It shall designate the court clerk as the official to be in charge of the selection process and shall define ~~his~~ the duties of the court clerk.

4. It shall specify that a true and complete written list showing the names and addresses of the persons summoned to begin jury service on a particular date shall be filed of record with the court clerk at least ten (10) days prior to the date such persons are to begin jury service.

C. In any county where such a plan is adopted, as provided in this section, the laws relating to the selection of petit jurors by ~~use of a jury wheel~~ the Administrative Director of the Courts shall not apply. In such counties, a municipal court, at the option of the municipal judge, may select jurors in the same manner as provided for by the plan. The municipal court clerk shall be designated to fulfill the duties provided in the plan for the district court clerk.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 27.9 of Title 38, unless there is created duplication in numbering, reads as follows:

38 O.S. 2001, Sections 28 and 34, as amended by Section 1, Chapter 134, O.S.L. 2002 (38 O.S. Supp. 2002, Section 34) and Sections 3, 5, 6, 7 and 9 of this act shall be known and may be cited as the "Jury Patriotism Act".

SECTION 4. AMENDATORY 38 O.S. 2001, Section 28, is amended to read as follows:

Section 28. A. All citizens of the United States, residing in this state, having the qualifications of electors of this state, who are of sound mind and discretion and of good moral character are competent jurors to serve on all grand and petit juries within their counties; provided, that persons over seventy (70) years of age and persons who have served as a grand or petit juror during the last two (2) immediately preceding calendar years shall not be compelled to serve as jurors in this state ~~and the court may excuse or discharge any juror drawn and summoned as a grand or petit juror if jury service would result in substantial hardship to the prospective juror.~~

- B. Persons who are not qualified to serve as jurors are:
1. Justices of the Supreme Court or the Court of Civil Appeals;
 2. Judges of the Court of Criminal Appeals or the district court;
 3. Sheriffs or deputy sheriffs;
 4. Jailers or law enforcement officers, state or federal, having custody of prisoners;
 5. Licensed attorneys engaged in the practice of law;
 6. Persons who have been convicted of any felony or who have served a term of imprisonment in any penitentiary, state or federal, for the commission of a felony; provided, any such citizen convicted, who has been fully restored to his or her civil rights, shall be eligible to serve as a juror; and
 7. Legislators during session of the Legislature or involved in state business.

C. Persons scheduled to appear for jury service may postpone the date of their initial appearance for jury service one time only. Postponements shall be granted when requested, provided that:

1. The prospective juror has not previously been granted a postponement;

2. The prospective juror appears in person or contacts the court clerk by telephone, electronic mail, or in writing to request a postponement; and

3. Prior to the granting of a postponement, the prospective juror fixes a date certain on which he or she will appear for jury service that is not more than six (6) months after the date on which the prospective juror originally was called to serve and on a date when the court will be in session.

D. A subsequent request to postpone jury service may be approved by a judge for cause, limited to a death in the family, sudden grave illness, a natural disaster or national, state, or local emergency in which the prospective juror is personally involved, that could not have been anticipated at the time the initial postponement was granted. Prior to the granting of the second postponement, the prospective juror shall fix a date certain on which he or she will appear for jury service within six (6) months of the postponement and on a date when the court will be in session.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 28.1 of Title 38, unless there is created duplication in numbering, reads as follows:

A. In this section, "undue or extreme physical or financial hardship" is limited to circumstances in which an individual would:

1. Be required to abandon a person under his or her personal care or supervision due to the impossibility of obtaining an appropriate substitute caregiver during the period of participation in the jury pool or on a jury; or

2. Incur costs that would have a substantial adverse impact on the payment of the individual's necessary daily living expenses or

on those for whom he or she provides the principal means of support;
or

3. Suffer physical hardship that would result in illness or disease.

B. An individual may apply to be excused from jury service for a period of up to twenty-four (24) months instead of seeking a postponement, when either:

1. The prospective juror has a mental or physical condition that causes him or her to be incapable of performing jury service. The individual, or his or her personal representative, shall provide the court with documentation from a licensed physician verifying that a mental or physical condition renders the person unfit for jury service for a period of not less than the period for which the excuse is sought; or

2. Jury service would cause undue or extreme physical or financial hardship to the prospective juror or to a person under his or her care or supervision.

C. A judge of the court for which the individual was called to jury service shall make hardship determinations. An individual requesting an excuse based on undue or extreme physical or financial hardship shall provide the judge with documentation including, but not limited to, federal and state income tax returns, medical statements from licensed physicians, and proof of dependency or guardianship. Undue or extreme physical or financial hardship shall not exist solely based on the fact that a prospective juror will be required to be absent from his or her place of employment. Failure to provide satisfactory documentation shall result in denial of the request to be excused.

D. After twenty-four (24) months, an individual excused from jury service shall become eligible for qualification as a juror unless he or she was permanently excused from service. An individual may permanently be excused from jury service when the

judge determines that the underlying grounds for being excused are of a permanent nature.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 28.2 of Title 38, unless there is created a duplication in numbering, reads as follows:

Service of prospective jurors shall be for no more than one court day in actual attendance, unless a prospective juror is selected to serve in a trial or is under consideration to serve on a trial and such consideration covers a period of two or more days. Once selected, a juror shall serve on the jury for the duration of the trial unless excused by the presiding judge.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 28.3 of Title 38, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created within the court fund of each county within this state an account to be designated the "Lengthy Trial Account". All monies accruing to the credit of the account are hereby appropriated and shall be expended by the court clerk pursuant to this section.

B. The purpose of the Account shall be to provide wage replacement or wage supplement to jurors who serve on petit juries in civil cases for which a jury trial has been requested, except as provided in paragraph 3 of subsection J of this section, and which lasts six (6) days or longer.

C. The Administrator of the Courts shall promulgate rules to establish the Lengthy Trial Account. The rules shall include, but not be limited to, the following:

1. The selection and appointment of an administrator for the Account;
2. Procedures for administration of the Account;
3. Procedures for the accounting, auditing and investment of money in the Account; and

4. A requirement for the Supreme Court of Oklahoma to report on the administration of the Account in its annual report on the judicial branch, setting forth the money collected for and disbursed from the Account.

D. In addition to the amounts collected pursuant to subsection A of Section 152 and subsection A of Section 153 of Title 28 of the Oklahoma Statutes, each trial court in this state shall collect from each attorney unless exempted pursuant to subsection J of this section, a fee of Fifteen Dollars (\$15.00) to be paid into the Account. An attorney will be deemed to have entered an appearance at the time the first pleading or other filing on which an individual attorney's name appears is submitted to the court for filing. All such fees shall be forwarded to the court clerk for deposit.

E. The court clerk shall use the fees deposited into the account to pay supplemental or full wage replacement to jurors whose employers pay less than full regular wages when the period of jury service reaches the sixth day and thereafter.

F. At the discretion of the court, the account may be used to pay replacement or supplemental wages of up to One Hundred Dollars (\$100.00) per day per juror.

G. At the conclusion of a trial, the court may order the losing party to reimburse as part of the chargeable costs the fees the prevailing party paid into the account.

H. Any juror who is serving or has served on a jury that qualifies for payment from the account, provided the juror's service commenced on or after the effective date of this act, may submit a request for payment from the account on a form provided by the Administrator of the Courts pursuant to subsection I of this section. Payment shall be limited to the difference between the fees paid pursuant to Section 86 of Title 28 of the Oklahoma Statutes and the actual amount of wages a juror earns, up to the

maximum level payable, minus any amount the juror actually receives from the employer during the same time period.

I. The Administrator of the Courts shall prescribe a form to comply with the following:

1. The form shall disclose the juror's regular wages, the amount the employer will pay during the term of jury service beginning on the sixth day and thereafter, the amount of replacement or supplemental wages requested, and any other information the court clerk deems necessary for proper payment;

2. The form shall require the juror to submit, prior to payment from the account, verification from the employer as to the wage information provided to the court clerk, including, but not limited to, the employee's most recent earnings statement or similar document; and

3. If an individual is self-employed or receives compensation other than wages, the individual may provide a sworn affidavit attesting to the individual's gross weekly income, together with such other information as the court clerk may require for verification of such weekly income.

J. The following persons and claims are exempt from this act:

1. Government attorneys entering appearances in the course of their official duties;

2. Claims filed in small claims court; and

3. Claims seeking social security disability determinations; veterans' compensation or disability determinations; recoupment actions for government educational loans or mortgages; child custody and support cases; actions brought in forma pauperism; and any other filings that involve minimal use of court resources and that customarily are not afforded the opportunity for a trial by jury as determined by the Administrator of the Courts.

SECTION 8. AMENDATORY 38 O.S. 2001, Section 34, as amended by Section 1, Chapter 134, O.S.L. 2002 (38 O.S. Supp. 2002, Section 34), is amended to read as follows:

Section 34. Every person, firm or corporation who discharges an employee, causes an employee to be discharged, or requires an employee to use sick leave or vacation leave because of said employee's absence from employment by reason of said employee's having been required to serve as a grand, multicounty grand, or petit juror on a grand, multicounty grand, or petit jury shall be guilty of a misdemeanor and, upon conviction, shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00). The provisions of this section shall not require an employer to pay an employee wages for the time the employee is absent from employment for jury duty unless the employee uses paid leave for that purpose. It shall be the decision of the employee whether to use paid leave or take leave without pay for absence from employment for jury duty. If an employer voluntarily continues to pay an employee called to serve on jury duty at the same rate paid when the employee is regularly working for the employer for the first five (5) regularly scheduled working days that the employee serves on jury duty, an employer may deduct the daily fee a court actually pays as compensation to an employee serving as a juror or prospective juror from the employee's daily regular pay, but may not make any deduction for court-paid jury service fees that are in excess of the employee's regular wage. For employers of one hundred (100) or less employees who voluntarily continue to pay an employee called to serve on jury duty at the same rate paid when the employee is regularly working for the employer for the first five (5) regularly scheduled working days that the employee serves on jury duty, the employer may apply for a supplement from the account established in Section 7 of this act for up to fifty percent (50%) of the employee's wages not to exceed Fifty Dollars (\$50.00) per day.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 28.4 of Title 38, unless there is created a duplication in numbering, reads as follows:

A court shall automatically postpone and reschedule the service of a summoned juror of an employer with five or fewer full-time employees, or their equivalent, if another employee of that employer is summoned to appear during the same period. Such postponement will not affect an individual's right to one automatic postponement under Section 28 of Title 38 of the Oklahoma Statutes.

SECTION 10. This act shall become effective November 1, 2003."

Passed the Senate the 15th day of April, 2003.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2003.

Presiding Officer of the House
of Representatives